IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 3 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX

Versus

N C MEHTA

Appearance:

1. INCOME TAX REFERENCE No. 3 of 1987
MR BB NAYAK FOR MR MANISH R BHATT for Applicant.
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 12/09/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

At the instance of the revenue, the following question is referred for the opinion of this Court in respect of the assessment year 1982-83.

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in coming to the conclusion that for the purpose of determining the disallowance under Section 37(3) read with Rule 6D, the restrictions were applicable in respect of expenditure incurred on the salary by an employee or other persons and such restriction was not applicable to the expenditure incurred for the travelling by the proprietor himself ?"

2 Mr.B.B.Nayak, learned Counsel for the revenue fairly states that earlier between the same parties in respect of the same question a Reference was made which has been decided on 4/7/2001 in Income Tax Reference No.98 of 1986 in favour of the assessee.

3 We accordingly answer the question in the affirmative i.e. in favour of the assessee and against the revenue.

4 The Reference stands disposed of accordingly with no order as to costs.

(M.S.Shah, J) (D.A.Mehta,J)

m.m.bhatt